

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.22800 OF 1996

ORAL ORDER:

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This writ petition is filed seeking a declaration that the alleged action of the respondents in interfering with the possession and enjoyment of the petitioner in respect of Ac.1.29 cents of land situated in Sy.No.251/3 of Chenchugudem, Buttaigudem mandal, West Godavari District as arbitrary and illegal.

It is pleaded by the petitioner that he belongs to Koya Nayakulu, which is classified as Schedule Tribe, and having regard to the fact that he is a landless poor, he is granted a 'D' form patta in respect of the land in question and since, then, he has been in possession and enjoyment of the same. It is alleged that though he is holding a valid patta, the respondents are attempting to dispossess him forcibly without there being any justifiable reason. Hence, this writ petition.

In response to the notice ordered, a counter affidavit has been filed on behalf of the respondents, in which the fact that the petitioner was granted 'D' form patta dated 28.3.1988 in respect of the land in question, has not been disputed. However, it is stated that the said land was the subject matter of S.R.No.23/77 on the file of the Special Deputy Collector, Tribal Welfare, Kotaramachandrapuram, in which the said land was ordered to be restored to another Tribal by name Smt. Poloju Bhudevi. The order of the Special Deputy Collector was confirmed by this Court in W.P.No.9536 of 1987 and, therefore, the petitioner was sought to be evicted.

It is also stated that since the petitioner is a landless poor necessary steps would be taken to accommodate the petitioner in some other land by granting a fresh assignment.

As can be seen from the counter affidavit, it is clear that as on today, the patta in favour of the petitioner is subsisting. It also appears that the petitioner is continuing in possession. As a matter of fact, this Court while directing *Rule nisi* by order dated 29.10.1996 granted

interim stay of dispossession of the petitioner from the land in question.

In the circumstances, the petitioner cannot be dispossessed unless his patta is cancelled following due process of law and he is put in possession of alternative land by way of fresh assignment.

Accordingly, the writ petition is disposed of with a direction to the respondents not to dispossess the petitioner from the land in question as long as the patta granted in his favour is subsisting. No costs.

(G. ROHINI).

19th January, 2007.
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19th January, 2007.

Between:

Daba Chandraiah.

.. Petitioner.

And

The District Collector, West Godavari District,
Eluru and others.

.. Respondents.